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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

9172

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on December 2, 2005

Signature

Typed or printed
nameMichelle George

Application Number

09/587,302

Filed

June 5, 2000

First Named Inventor

TRAN, H. T.

Art Unit

2194

Examiner

ANYA, CHARLES E.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 32,759☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

James M. Stover

Typed or printed name

937-445-7663

Telephone number

December 2, 2005

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐

*Total of _____ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

NCR Docket No. 9172

In re Application of:

Hoa Thu Tran et al.

Group Art Unit: 2194

Application No.: 09/587,302

Examiner: Anya, Charles E.

Filed: 06/05/2000

For: CONTROLLING SOFTWARE COMPONENTS IN A MULTI-NODE
PROCESSING SYSTEM

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Michelle George
Michelle George

PRE-APPEAL BRIEF REQUEST FOR REVIEW

This a Pre-Appeal Brief Request for Review following a final action dated August 2, 2005. Applicant asks the Office to reconsider this application.

Remarks/Arguments

Claims 1-3, 5, 7, 9-11, 13-16, 19-21 and 23-35 are pending in the application. In the August 2, 2005 final action the Examiner rejected claims 1-3, 5, 7, 9-11, 20, 23, 26 and 27 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,802,367 to Held et al. (hereinafter "Held") in view of U.S. Patent 5,748,896 to Daly et al. (hereinafter "Daly"). In addition, the Examiner rejected claims 24 and 25 under 35 U.S.C. § 103(a) as being unpatentable over Held in view of Daly, and further in view of U.S. Patent 5,613,148 to Bezviner et al. (hereinafter "Bezviner"). Finally, the Examiner rejected claims 13-16, 19, 21 and 28-35 under 35 U.S.C. § 103(a) as being unpatentable over Bezviner in view of Held. Please note that these rejections are identical to those made in

a non-final action dated January 27, 2005 which was subsequently replied to by Applicant.

In light of the arguments below, Applicant asks the Office to reconsider these rejections and to allow all of the claims.

The 103(a) Rejections over Held in view of Daly

With regard to Applicant's claim 1, the Examiner states that Held is "silent with reference to causing a service to be invoked in plurality of nodes/starting selected software components in plurality of nodes" (*see, e.g.*, August 2, 2005 final action, pg. 3, ¶ 5). Accordingly, the Examiner relies on Daly to address these deficiencies of Held (*see, e.g.*, August 2, 2005 final action, pg. 3, ¶ 6). However, as pointed out in Applicant's reply to the January 27, 2005 action, Daly also does not provide the noted deficiencies.

As cited by the Examiner, Daly discloses, among other things, the display of "instantiations of . . . network service entities, their respective statuses, and their corresponding server names . . . in window 108 as a list 110" (*see* Daly, col. 7, lines 8-10; Fig. 5A). Thus, and as argued in Applicant's reply to the January 27, 2005 action, while Daly does teach the *existence* of multiple network service entities on multiple network servers, such teaching does not amount to the disclosure of a start routine *causing* one or more services to be invoked in *each* of a plurality of nodes of a processing system, *and* the invoked services *starting* select software components in *each* of the nodes, as required by Applicant's claim 1.

In response to this argument, the Examiner states in the August 2 final action that "Applicant argues in substance that (1), the Daly prior art reference does not teach or suggest a start routine *for* causing one or more services to be invoked in each of the plurality of nodes of a processing system" (*see* August 2, 2005 final action, pg. 11, ¶ 47) (emphasis added). Applicant would like to respectfully point out that the essence of Applicant's argument is not that Daly does not teach or suggest a start routine *for* causing

one or more services to be invoked in each of a plurality of nodes, but that Daly does not teach or suggest “the start routine *causing* one or more services to be invoked in each of the nodes” (emphasis added), let alone the invoked services starting selected software components in each of the nodes as further required by Applicant’s claim 1 and found to be missing by the Examiner from Held. According to Applicant’s claim 1, the start routine, once launched in a first node, *causes* one or more services to be invoked in *each of the nodes* of a processing system whereas Daly teaches, among other things, a software component with which a *single* network service in a *single* node may be administered upon request by a human network administrator (*see, e.g.,* Daly, col. 9, lines 20-28; *see also*, Applicant’s reply to the January 27, 2005 action). Thus, Daly fails to provide limitations of Applicant’s claim 1 stated by the Examiner to be absent from Held. The result is that claim 1 and its dependents are patentable over Held in view of Daly.

The 103(a) Rejections over Bezviner in view of Held

In the August 2, 2005 final action, the Examiner states that Bezviner does not teach what amounts to the last two elements of Applicant’s claim 13, namely a “manager module executable in the database system to invoke services in the plurality of nodes to control starting of the software components,” and a “start procedure executable in a first one of the [plurality of] nodes to invoke the services in respective nodes through the manager module” (*see* August 2, 2005 final action, pg. 7-8, ¶ 29). As a result, the Examiner attempts to rely on Held to address these deficiencies of Bezviner.

In support of use of Held to address the deficiencies of Bezviner, the Examiner states that “Held teaches a manager module executable in the database system to invoke services to control starting of the software components . . . and a start procedure executable in a first one of the nodes to invoke the services in the plurality of nodes through the manager module” (*see* August 2, 2005 final action, pg. 8, ¶ 30). However, as noted above in regard to the rejection of Applicant’s claim 1, the Examiner has already stated that Held is “*silent with reference to causing a service to be invoked in plurality of nodes/starting selected software components in plurality of nodes*” (*see* August 2,

2005 final action, pg. 3, ¶ 5) (emphasis added). Applicant would like to respectfully point out that, despite the Examiner's argument to the contrary, a person of ordinary skill in the art would readily appreciate that there is no substantive difference between the elements the Examiner admits to be absent in Held regarding Applicant's claim 1 and the elements the Examiner is subsequently relying on Held to provide regarding Applicant's claim 13.

As further elaborated in its reply to the January 27, 2005 action, Applicant agrees with the Examiner's first characterization of Held, namely that Held is silent with regard to causing one or more services to be invoked in each of a plurality of nodes, and the invoked services subsequently starting select software components in each of the nodes. Therefore, Held fails to address the noted deficiencies of Bezviner regarding Applicant's claim 13. As a result, claim 13 and its dependents are patentable over Bezviner in view of Held.

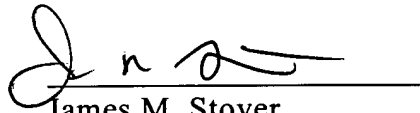
Regarding claim 21, the Examiner similarly relies on Held to provide teachings lacking in Bezviner. In particular, in the August 2 final action the Examiner states that Bezviner does not explicitly teach, among other things, to "invoke services in the plural nodes to start database software components" as required by Applicant's claim 21 (*see* August 2, 2005 final action, pg. 9, ¶ 37). However, as noted above in regard to Applicant's claims 1 and 13, the Examiner has previously stated, and Applicant agrees, that Held is similarly silent regarding invoking services in plural nodes to start software components in the plural nodes. Therefore, neither Bezviner nor Held, taken alone or in combination, teaches or suggests all the elements of Applicant's claim 21. Consequently claim 21 and its dependents are also patentable over these references.

Likewise, it is seen that Held similarly does not teach an element of Applicant's claim 33 the Examiner states is absent from Bezviner, namely "a start procedure executable in a first one of the plurality of nodes to invoke services in each of the plurality of nodes." The result is that claim 33 and its dependents are also patentable over Bezviner in view of Held.

Conclusions

In light of the foregoing, Applicant asks the Office to reconsider this application and to allow all of the claims. Please apply any charges that might be due, excepting the issue fee but including fees for extensions of time, to deposit account 14-0225.

Respectfully,

A handwritten signature in black ink, appearing to read 'J M Stover', is written over a horizontal line.

James M. Stover
Reg. No. 32,759

NCR Corporation
1700 South Patterson Blvd.
Dayton, Ohio 45479-0001

Tel. No. (937) 445-7663
Fax No. (937) 445-6794